




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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------------|------------------|
| 10/698,781 | 10/31/2003 | Mark E. Baratz | AHS-19 | 1696 |
| 7590 | 06/24/2004 | | EXAMINER THOMPSON, JEWEL VERGIE | |
| Attorney at Law Suite 304 201 N. Craig Street Pittsburgh, PA 15213 | | | ART UNIT | PAPER NUMBER |
| | | | 2855 | |

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|---|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/698,781 | BARATZ ET AL. | |
| | Examiner | Art Unit | |
| | Jewel V Thompson | 2855 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10 is/are rejected.
- 7) ☒ Claim(s) 4-9 and 11-13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kawai et al (4,726,248).

Regarding claim 1, Sadoff et al teaches an apparatus for assessing a person's hand strength comprising: means (30) for engaging the hand; and means (110, 120, 130) for determining the strength of the hand based on a twisting action with the hand of the engaging means relative to the determining means (col. 4, lines 60-63), the engaging means connected to the determining means (fig. 2A).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawai et al in view of Fry-Welch et al (5,163,443).

Regarding claims 2 and 10, Kawai et al fails to teach the determining means includes a torque sensor. Fry-Welch et al teaches a system for testing hand, wrist, and forearm strength comprising a torque sensor (17, col. 4, lines 38-39). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to have used the torque sensor of Fry-Welch et al in the apparatus of Kawai et al for the purpose of evaluating the ability to exert a torque (col. 4, lines 38 and 39)

Regarding claim 3, Kawai et al teaches the determining means includes a housing (fig. 2A). Kawai et al fails to teach that the torque sensor is disposed in the housing. Fry-Welch et al teaches a system for testing hand, wrist, and forearm strength comprising a torque sensor (17, col. 4, lines 38-39). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to have placed the torque sensor of Fry-Welch et al in the housing of Kawai et al for the purpose of providing protection to the sensing elements.

Allowable Subject Matter

3. Claims 4-9 and 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,170,663 Kovacevic teaches a grip sensor

Re. 35,598 Sadoff et al teaches strength analyzer and method of using same

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jewel V Thompson whose telephone number is 571-272-2189. The examiner can normally be reached on 7-4:30, off alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2855

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jewel K. Thompson

Edward I. Lebowitz
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